

Attorney Docket No. 0756-2389

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Satoshi SEO

Serial No. 09/987,003

Filed: November 13, 2001

For: ELECTROLUMINESCENT DEVICE
HAVING DRYING AGENT

) Group Art Unit: 2875

) Examiner: I. Negron

) CERTIFICATE OF MAILING

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) Alexandria, VA 22313-1450, on October 4,
) 2004.

Adeline M. Stamper

RESPONSE

Honorable Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Official Action mailed June 2, 2004, has been received and its contents carefully noted. Filed concurrently herewith is a *Request for One Month Extension of Time*, which extends the shortened statutory period for response to October 2, 2004. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on November 13, 2001, and March 7, 2002.

Claims 1-92 are pending in the present application, of which claims 1, 12, 23, 36, 49, 59 and 81 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 3 of the Official Action rejects claims 1-4, 12-15, 23-28, 36-41, 49-51, 59-61 and 69-85 as obvious based on the combination of U.S. Patent No. 5,882,761 to Kawami et al. and U.S. Patent No. 2,578,324 to Southwick, Jr. Paragraph 4 of the Official Action rejects dependent claims 5-11, 16-22, 29-35, 42-48, 52-58, 62-68 and 86-92 as obvious based on combination of Kawami, Southwick and Official Notice. The

Applicant respectfully traverses the rejection because the Official Action has not made a *prima facie* case of obviousness.

In the "Response to Arguments," it appears that the Examiner misunderstands the Applicant's invention and implies that the claims are directed to a "drying agent being separated from the ELE by a permeable seal having 20% porosity or more" (page 6, Paper No. 02040528). However, the independent claims do not recite a permeable seal or a drying agent separated from an ELE by such a seal. Rather, the independent claims are directed to a drying agent comprising a porous body having a porosity of 20% or more, and the prior art does not teach or suggest at least this feature.

As stated in MPEP §§ 2142-2143.01, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The prior art, either alone or in combination, does not teach or suggest all the features of the independent claims. The independent claims recite a drying agent comprising a porous body having a porosity of 20% or more. Kawami, Southwick and

Official Notice, either alone or in combination, do not teach or suggest at least the above-referenced features of the present invention.

The Official Action concedes that Kawami does not disclose "the drying agent including a porous seal having a having a porosity of 20% or more" (page 4, Paper No. 02040528). The Official Action asserts that Southwick cures the deficiencies in Kawami. The Applicant respectfully disagrees.

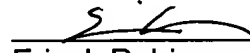
The Official Action relies on Figure 3 of Southwick to allegedly teach a drying agent. However, Figure 3 of Southwick "is a plan view of a type of container, or pouch, made from such coated sheets with a corner portion removed to show the contents" (column 2, lines 9-11) and a "desiccant, such as silica gel, is placed in a portion of the pouch" (column 4, lines 4-5). In other words, the drying agent in Southwick is the silica gel desiccant inside the pouch, not the pouch made from coated sheets. Southwick does not teach or suggest that the silica gel comprises a porous body or that the silica gel has a particular porosity. Therefore, Southwick does not teach or suggest a drying agent comprising a porous body having a porosity of 20% or more.

The use of Official Notice does not cure the deficiencies in Kawami and Southwick. The Official Action relies on Official Notice to allegedly teach the use of OELE devices (page 5, *Id.*). Kawami, Southwick and Official Notice, either alone or in combination, do not teach or suggest a drying agent comprising a porous body having a porosity of 20% or more

Since Kawami, Southwick and Official Notice do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. For the reasons stated above, the Official Action has not formed a proper *prima facie* case of obviousness. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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